

## **REMARKS**

Reconsideration of the subject application in view of the foregoing amendment is respectfully requested.

By the present amendment, the specification has been amended to describe more precisely the structure shown in the drawings. Claim 9 has been canceled. Claim 10 has been added. Claim 2 has been amended to provide its proper dependency.

Based on the foregoing amendments and the following remarks, the application is deemed to be in condition for allowance and action to that end is respectfully requested.

### **I. Amendment of the Specification**

As noted above, the specification has been amended to describe structure shown in the drawings. Specifically, the specification has been amended to indicate that the locking device pivotally secures the head piece on the guide pipe. This feature is implicitly disclosed in the specification and is clearly shown in Figs. 3 and 4 and, therefore, does not constitute new matter.

It is a long held view that the amendments to the specification are proper when they conform to the original drawings. Thus, the District Court of Northern California stated:

An amendment does not constitute new matter where the amendment clarifies an inherent property of the invention as disclosed by the original application, or where it adds nothing to what a person skilled in the art would have learned from the original application, or where it includes matter clearly disclosed by drawings in the original application. (emphasis added).

Corometrics Medical Systems Inc. v. Berkely Bio-Engineering, Inc., 193

U.S.P.Q. 467, 476 (DC N. Calif. 1977).

The same view has been expressed by the Ninth Circuit Court of Appeals that stated:

Resort may be made to the drawings to cure omissions in the description.

Omark Industries, Inc. v. Textron, Inc., 216 U.S.P.Q. 749, 753 (9th Cir. 1982).

The foregoing decisions are consistent with the holding in Vas-Gath, Inc. v. Mahurkar, 19 U.S.P.Q. 2d, 1117 (Fed. Cir. 1991) that “[D]rawings alone may be sufficient to provide the “written description of the invention” required by §112, first paragraph.”

## **II. Rejection of Claims**

The Examiner rejected claims 2 through 7 and claim 9 under 35 U.S.C. §103(a) as being unpatentable over Olvera, et al., U.S. Patent No. 5,897,045 in view of Lin, U.S. Patent No. 6,779,697 (Lin). Claim 8 was rejected as claims 1-7 above and further in view of Caringella, et al., U.S. Patent No. 6,761,299

(Caringella). It is respectfully submitted that claims 2-8 and 10 are patentable over the combination set forth in the Office Action.

Specifically, claim 10 recites means for securing the head piece at the outlet opening of the guide pipe with a possibility of pivotal movement relative to the guide pipe. No such means is disclosed in Oliver or Lin.

Specifically, in Lin the head piece is fixedly secured to the guide member, forming an integral part therewith (the barrel 6).

The *prima facie* case of obviousness requires that the prior art references teach or suggest all of the claim limitations. Even assuming *arguendo* that it would have been obvious to combine Olvera and Lin, the combination of Olvera and Lin would not include means for securing the head piece at the guide pipe opening with possibility of rotation relative to the guide pipe, as recited in claim 10 of instant application.

In view of the above, it is respectfully submitted that the combination of Olvera and Lin does not make the present invention, as defined by claim 10, obvious, and claim 10 is patentable over said combination.

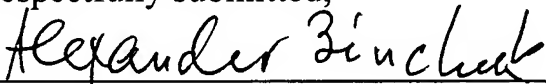
Claim 2-8 depend on claim 10 and are allowable for the same reasons claim 10 is allowable.

## CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

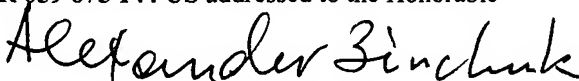
Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

  
Alexander Zinchuk  
Reg. No. 30,541

Dated: January 12, 2006  
Abelman, Frayne & Schwab  
666 Third Avenue, 10th Floor  
New York, NY 10017-5621  
212-885-9386

This correspondence is being deposited with the United States Postal Service on January 12, 2006 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number ER 059 675 144 US addressed to the Honorable Commissioner for Patents, Alexandria, VA 22313-1450.

  
Alexander Zinchuk